

# Order

Entered: July 22, 2003

**Michigan Supreme Court  
Lansing, Michigan**

Maura D. Corrigan,  
Chief Justice

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Clifford W. Taylor  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

ADM File Nos. 2002-38 and 2003-14

Amendment of Rules 3 and 4 of the  
Rules Concerning the State Bar of Michigan

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In January 2003, the Court published for comment a proposed amendment of Rule 4 of the Rules Concerning the State Bar of Michigan and, in accompanying text, explained other modifications that it was considering in the dues structure that affects members of the State Bar. The proposal was to add a \$15 annual assessment for the client security fund and gradually increase the annual amount designated for the attorney-discipline system from \$100 to \$140. 467 Mich 1230 (2003). (Administrative File No. 2002-38.) Subsequently, and in connection with the submission of a strategic plan by the Representative Assembly of the State Bar, the Court published an additional proposal for comment that would affect both Rule 4 and Rule 3. The Representative Assembly's proposal was to increase the general bar dues from \$160 to \$200 with a provision for automatic adjustments, raise the age for a dues exemption from 70 to 75, add new fees for inactive members and for reinstatement, and to allow for resignations. (Administrative File No. 2003-14.) The new proposal, along with an alternative version from the Court, was published for comment at 468 Mich 1217 (Part 1, 2003).

The Court today is enacting many of the requested changes, including a \$15 annual assessment for the client security fund, a \$50 late fee, a \$100 reinstatement fee, an assessment for inactive members, and modification of the dues exemption for senior lawyers. In addition, the Court is approving a resignation provision and a \$20 increase in the discipline component of the annual dues. With respect to the Representative Assembly's request to raise the amount of general dues paid by most of its members from \$160 to \$200 with a provision for automatic adjustments, we are approving a \$20 increase to \$180 without an automatic-adjustment provision.

We commend the State Bar for its commitment to fiscal responsibility and the fulfillment of its core functions. The efforts already made, combined with the goals set forth in the strategic plan, will enhance the legal profession and result in an organization that better represents its members and better serves the public at large. However, in light of present economic conditions and the uncertainties of the fiscal effect of the other changes we are approving today, we believe that it is appropriate to proceed cautiously with respect to requests for additional dues. Under the schedule announced today, the total annual dues paid by most members of the State Bar will increase by about 21 percent, from \$260 to \$315.

The Court will review the matter of general dues in the future, in light of the consequences of the changes set forth in this order and other data from the State Bar concerning its strategic plan and other initiatives. Likewise, we will review the matter of the dues that are committed to the discipline agencies and the assessment for the client security fund. Regarding the client security fund, we will appoint a committee to study the potential of alternative financing, including the possibility of a bonding requirement for those who are in the risk pool because of the nature of their law practices.

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of Rules 3 and 4 of the Rules Concerning the State Bar of Michigan are adopted, effective September 1, 2003.

### Rule 3 Membership Classes

(~~a~~A) Active. [Unchanged.]

(~~b~~B) Inactive. An active member may request an inactive classification.

(1) If the period of inactivity is less than 3 years, the ~~The~~ member may ~~later~~ be reclassified as ~~an~~ active member by

(~~1~~a) applying to the State Bar secretary;

(~~2~~b) paying the full amount of the annual dues for the current fiscal year; and

(~~3~~c) demonstrating that no disciplinary action has been taken or is currently pending in another jurisdiction; ~~and.~~

(~~4~~2) If the period of inactivity is if the member was inactive for 3 years or more, the member must, in addition to fulfilling the requirements of subrule (B)(1)(a)-(c), obtaining a certificate from the Board of Law Examiners that the member currently possesses sufficient ability and learning in the law to enable the member to properly practice as an attorney and counselor in Michigan.

If the inactive member has been or is currently subject to disciplinary action in another jurisdiction, the application must be referred to the Attorney Discipline Board and action on the application delayed until the board makes a decision.

(~~c~~C) - (~~d~~D) [Unchanged.]

- (E) Resignation. An active or inactive member who is not subject to pending disciplinary action in this state or any other jurisdiction may resign from membership by notifying the secretary of the State Bar in writing. The secretary shall notify the member when the request is accepted, whereupon the member no longer will be qualified to practice law in Michigan and no longer will be eligible to receive any other member benefits. The secretary of the State Bar also shall notify the clerk of the Supreme Court of the resignation. To be readmitted as a member of the State Bar, a person who has resigned must reapply for admission, satisfy the Board of Law Examiners that the person possesses the requisite character and fitness to practice law, obtain a passing score on the Michigan Bar Examination, and pay applicable fees and dues. Resignation does not deprive the Attorney Grievance Commission or the Attorney Discipline Board of jurisdiction over the resignee with respect to misconduct that occurred before the effective date of resignation.

#### Rule 4 Membership Dues

- (aA) An active member's dues for each fiscal year (October 1 through September 30); are payable at the State Bar's principal office by October 1 of each year. The dues consist of ~~two components: \$160 for State Bar expenses other than the attorney discipline system and an amount~~ three separate amounts to be set ~~annually~~ by the Supreme Court to fund: (1) the Attorney Grievance Commission and the Attorney Discipline Board, (2) the client security fund administered by the State Bar, and (3) other State Bar expenses. Each amount shall be listed separately in the dues notice. ~~to be separately stated in the dues notice. However, for a member admitted between April 1 and September 30, the fiscal year of admission, dues are one-half of the full-year amount. An inactive member shall be assessed one-half the amounts assessed an active member for the client security fund and general expenses, but the full amount designated for the discipline agencies.~~
- (B) A member who is admitted to the State Bar between April 1 and September 30 shall be assessed one-half the full amount of dues for that fiscal year.
- (bC) Dues notices must be sent to all active members before September 20. A ~~10 percent \$50~~ late charge is will be added to a dues payment postmarked after November 30. The State Bar must send a written notice of delinquency (by registered or certified mail to the last recorded business address) to a member who fails to pay dues by November 30. If the dues and the late charge are not paid within 30 days after the notice is sent, the individual is suspended from active membership in the State Bar. If an individual is not subject to a disciplinary order and the suspension is for less than 3 years, the member ~~is automatically~~ will be

reinstated on the payment of dues, a \$100 reinstatement fee, and late charges owing from the date of the suspension to the date of the reinstatement. If the suspension is for 3 years or more, the individual must also apply for recertification under Rule 8 for the Board of Law Examiners.

(eD) ~~An active member~~ A person who has been a member of the State Bar for at least 50 years shall not be assessed general expenses, but shall pay the full amount assessed other members for the client security fund and the discipline agencies does not have to pay dues after becoming 70.

(dE)-(eF) [Relettered but otherwise unchanged.]

Staff Comment: The July 22, 2003, amendments of Rule 3 of the Rules Concerning the State Bar of Michigan, effective September 1, 2003, imposed a dues requirement on inactive members for the first time and also added a provision allowing members of the State Bar to resign their membership. Rule 4 was amended to add a separate dues component for the client security fund administered by the State Bar—money for the client security fund previously came from the general fund. In addition, a dues exemption for persons who are members of the Bar for at least 50 years was substituted for an exemption for members 70 years of age and older. The dues set by the Court for most members were: (1) \$120 for the Attorney Grievance Commission and the Attorney Discipline Board; (2) \$15 for the client security fund; and (3) \$180 for other State Bar expenses.

The staff comment is published only for the benefit of the bench and bar and is not an authoritative construction by the Court.

Weaver, J., would adopt an exemption from dues for persons who have been members of the State Bar for 45 years or more.

Kelly, J., states as follows: I would grant the request of the State Bar of Michigan for a dues increase of \$40 together with an automatic adjustment provision. Also, I would exempt inactive members from paying an assessment for the client security fund and the discipline agencies.

My reasons are as follows: (1) A dues increase is long overdue. The SBM has not raised dues in over ten years. The national average is every five years. Because such a long period has elapsed with no raise, a larger than normal increase is appropriate and to be expected. Michigan lawyers' state bar dues today are far below the national average in comparable states and professions. (2) The \$40 request is not inflated or unreasonable. The SBM has justified the request with documentation and with a new strategic plan for future operations. The majority does not claim that the \$40 is unsubstantiated. The Court has approved only a \$20 increase, an arbitrary amount, there being no rationale for reducing the request by half. (3) Also needed and

appropriate is the requested automatic adjustment provision, a cost of living escalator that would allow the annual dues to fluctuate with the economy. The provision would assure that, should the cost of living rise over the next five years, the bar can implement its strategic plan without returning to the Court for additional increases. (4) Finally, inactive members should not pay into the client security fund or discipline agencies. Because they are not practicing law, it is not to be expected that inactive members will be subject to attorney discipline or that they will control client funds.

The effect of giving the SBM only fifty percent of the dues increase requested and of denying an automatic adjustment is to (1) stifle bar activity and growth, and (2) expend the bar's energy on repeated annual trips to the Court for sufficient dues to continue at best in a suppressed fashion. The judiciary, the legal profession, and the general public can and should profit from a healthy, active state bar association. By permitting the bar to raise only fifty percent of the dues money it needs, the Court deprives us all of full use of a valuable resource.



I, CORBIN R. DAVIS, Clerk<sup>5</sup> of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

July 22, 2003

*Corbin R. Davis*

Clerk